Comments of Star Printing Co., Miles City, MT
In the Matter of: Cross-Ownership of Broadcast Stations and Newspapers and Newspaper/Radio Cross-Ownership Waiver Policy
MM Docket Nos. 01-235 and 96-197

These are the Comments of Star Printing Co. of Miles City, Montana, licensee of Station KATL(AM), Miles City, Montana, and the Miles City Star, a daily newspaper published five days a week with circulation of 3,668 in a town of 8,900 population and a county of 11,796 population.

We also publish a weekly farm and ranch shopper that goes to the rural area free of charge. The newspaper has been published since the 1880's and started as the Miles City Star in 1911. The shopper has been published since 1970.

In sum, our position is that because of (1) recent changes in the media marketplace and (2) pragmatic considerations, the Commission should eliminate the newspaper/radio station cross-ownership limitation in Section 73.3555(d) of the rules. Should the Commission eventually decide to retain the rule, we believe the Commission should certainly not base waivers on the size of the newspaper involved.

BACKGROUND

The newspaper/radio ownership was allowed by the Commission to be "grandfathered" in 1975, when the rule against cross ownership was implemented, because of a diversity of voices in the market, the presence of a local television station, and the apparent need for the station to remain as part of the newspaper company to preserve the station's economic viability.

In 1985 the Commission granted Station KATL an increase in power to 10,000 watts daytime and 1,000 watts (directional) nighttime and a frequency change to 770 kHz, stating that the area served by the increased power would allow for greater service to the vast rural area outside the newspaper market.

The circulation zone of the Miles City Star and the Farm and Ranch Shopper covers six counties in southeastern Montana. The paid circulation of the newspaper is 3,668, and the free distribution of the shopper is 6,733, for a total households covered by the newspapers of about 10,401. The retail trade zone covered by Station KATL includes ten counties of southeastern Montana with a population of 40,600, and recent Arbitron research shows significant listenership throughout that region.

In 1975, when Star was grandfathered for cross-ownership the immediate market had the local daily newspaper, radio Station KATL(AM), one television station, and a cable television franchise with 10 channels. At that time additional outside voices coming into the area included a daily newspaper from Billings, two television stations from Billings via translators, and two daytime AM radio signals from other regional communities, one at Forsyth 40 miles away and the other at Baker 80 miles away.

In 1996 the "inside" media market has expanded and now includes the local daily newspaper, two local AM radio signals (including KATL), a local television station, a Class C FM station, a cable television franchise with 30 channels and a DMX music system, and a public radio FM station. The outside voices in the market now include a daytime AM and Class C FM stations in Forsyth, a daytime AM and an FM station in Baker, a full time AM in Williston, North Dakota, a new Class C FM station (broadcasting religious programming), a total of four television stations in Billings via translators, and a daily newspaper in Billings. Eighty miles away in Glendive there are a full time AM, FM and television stations, all under one ownership. The owner in the Glendive market also owns the television station in our market and the AM/FM combination in Forsyth. The Forsyth FM station's city grade signal also encompasses our city of license. The Miles City cable TV system has increased the number of channels available to its subscribers.

The current Star ownership has controlled the corporation since 1965. Since that time, and certainly since the time the company's cross-ownership of KATL and the daily newspaper were "grandfathered" in 1975, the company has made a concerted effort to preserve separate "voices" for its community audiences. The station and newspaper employ entirely separate staffs, including separate and competitive news and advertising sales personnel. The station and newspaper are accounted, budgeted and managed separately, and the publisher of the paper and the manager of the station each report directly to the president of the corporation. We feel this separation is vital, not only for adherence to the spirit and intent of the Commission rules, but for credibility and respect in even this small rural community.

SHORTCOMINGS IN THE CURRENT CROSS-OWNERSHIP RULE

Over the years since the Commission's adoption of the cross-ownerships rule, we have found the regulation to be burdensome on several occasions. Shortly after the adoption of the rule, Star detected the need for additional air time to provide more coverage of local events and sports, as well as alternate entertainment programming. Initially, Star explored the feasibility of obtaining an unused FM frequency allotted to the area, but found it unavailable to the company because such acquisition would compound our existing cross-ownership. Subsequently, three other stations have been licensed in the area, at least two of which have experienced serious economic difficulties, including being off the air from time to time. The service offered by these stations has been marginal, with little if any local news, events or sports coverage of substance.

The owners of several of these stations--as recently as a few months ago--have attempted to interest Star in their purchase on more than one occasion, but Star has been unable to pursue their proposals because of the cross-ownership restrictions.

In the meantime, we have witnessed the Commission's reduced restrictions on common ownership of radio stations, in what would appear to be a contradiction of its own philosophy regarding dominance of "voices" in a single market. We view the rule allowing common ownership of eight stations in the largest markets as being contrary to the spirit of the cross-ownership rule.

COMMENTARY ON POSSIBLE RULE CHANGES

We feel the Commission should simply rescind its newspaper/radio cross-ownership rule, without regard to market size, signal strength or other demographic or geographic criteria. We feel that the technology now exists for sufficient "voices" in any size community or market - from the largest metro area to the smallest and most remote rural region like ours - to allow a free and open-market operation and ownership of newspapers and radio stations.

Even in remote areas, access to a variety of "voices" - on local and regional issues as well and national and international issues - is available to virtually everyone. Regional and even national radio and television stations and cable providers can broadcast and sell localized news and advertising, outside newspapers are able to regionalize their coverage in local editions, and an increasing number of individuals, families and business firms are obtaining additional information world-wide through the Internet. The concept of the local radio license - or a local daily newspaper - as being the exclusive "franchise" on local information is simply a fading memory and does not accurately reflect reality.

We feel our own experience confirms that in some cases cross-ownership of newspapers and radio stations could lead to benefits such as increased dissemination of news. If we had been allowed to expand our ownership by adding an FM station in our market, we would have been able to broaden local coverage of public issues and events, local sports and commentary. We were unable to do so because of the Commission's newspaper/radio prohibition, and the licenses have gone to others with apparently fewer resources. As a result, the community has not been well served.

Therefore, we firmly believe that the Commission should NOT adopt a waiver policy based on numerical rank or a specified number of independent voices in each market. To establish such parameters would clearly discriminate against owners in one size market or another, and would be inconceivably difficult to define fairly.

As operators of one of the nation's smallest stations and smallest daily newspapers in one of its smallest markets and most remote areas, we are firmly opposed to the Commission adopting rules which allow waiver of cross-ownership regulations only in the larger markets. In fact, as we have attempted to illustrate in our background commentary, we feel the current rule is particularly burdensome and contrary to the public interest in the smaller markets, where independent stations often do not have the financial resources to adequately cover local news and public events.

Definition of the "minimum" number of independent voices in each market would be, with the current state of technology, almost impossible. Setting a minimum level of radio stations and a specified minimum number of independent voices would be unmanageable for the Commission, and be generally detrimental to the smaller markets.

Our position is that the cross-ownership rule should be abandoned in its entirety, and the issue of computing the number of remaining independent voices becomes irrelevant.

If it is the Commission's decision to retain the rule, however, we would urge that all other media outlets in the local market be considered in computing the number of remaining independent voices. In today's world, with the technical capabilities now available, media that were once not considered "local" are now very much local. For instance, the daily newspaper published in a major market one hundred fifty miles away from us prints daily a special edition geared for the market outside of its local or home market. The local cable company sells advertising to local merchants and has a channel providing local programming. In some markets the local cable company even provides local news and sports coverage. The capability is there for all of those entities to be considered competing independent voices.

Also with today's technology, media outlets are looking at more regional and local programming even though they are thousands of miles from their immediate target audience. Further, many people are availing themselves of the interactive "voice" facilities on the Internet. Assessing the impact of these outlets is very difficult. If they provide any form of local content they should be counted as an independent local voice.

As to the differentiation between radio and television, it would only be right to count radio and television separately and give them equal status unless the Commission establishes news content and quantity as a measuring device. If that is the case then television should be weighted more heavily (perhaps 3:1) than radio. Equal consideration to waiver requests should be given irrespective of the "strength" of the particular media outlets involved. Newspaper/radio combinations should be allowed wherever there are other independent voices remaining in the market place, and, as we have said, there is virtually nowhere in our high-tech "global village" where there are no other local voices.

If the Commission continues the cross-ownership rule in some form, both commercial and non-commercial stations should definitely be counted when determining the number of independent voices in each market. Both radio and television non-commercial stations should be in that count. Non-commercial stations are doing more local programming and public affairs programming all the time. Stations operating in local colleges, and local or regional public radio or public television stations are available to most households in even remote parts of the country. They are broadcasting local documentaries and candidate debates which affect the local market. Cable television, daily newspapers and television stations that are outside the market but have market presence should also be counted, as well as "alternative press" daily, weekly and monthly publications which are now more numerous through the advent of desktop publishing.

In discussion about video delivery systems other than broadcast, local cable systems are now selling local advertising and inserting it in programming from channels originating thousands of miles away. They are also using this time to present localized public-service type announcements. There is no reason they could not also use this time to provide local news and opinion, though some have not yet done it. Cable systems, and satellite delivery systems, whether they provide a local forum at this time or not should be considered as independent voices because they have the capability of doing so at any time.

The obvious difficulty in fairly determining exactly how many competing voices remain in a market after creation of a newspaper/radio station combination strongly counsels in favor of eliminating the cross-ownership rule in its entirety.

If the Commission determines to retain the rule, any waiver policy should apply to all markets. Allowing waivers in larger markets, but not allowing waivers in smaller markets, would be clearly discriminatory, and do serious damage and disservice to the stations and the public in the smaller markets.

We feel the geographical issues should be resolved by abandonment of the cross-ownership rule. We have illustrated here with our own experience the impact of the rule on one of the most remote parts of the United States.

If the Commission determines to retain the rule, the Commission should consider the influence the major market voices have on the markets that are in the same Area of Dominant Influence (ADI). These major market voices sometimes have more listeners in a smaller market than do local stations. So whether or not they have programming that is directly relevant to local issues or provide election coverage is not a good measure of the amount of influence they have. Because our universe is really becoming so small, most issues facing all markets are of national importance as well as local importance. With the cross-ownership of newspaper/radio the small market station might be able to afford better coverage of local issues. This would be much the same as we now have with ownership of multiple radio stations in a market. Those combinations are better suited to providing more local programing. Major metropolitan media outlets should be counted in the same way as voices located in and serving the neighboring market where there is overlap of the neighboring market.

Once again we assert that the abandonment of the cross-ownership rule would resolve all of these competition issues, and allow a free-market leveling of the playing field.

If it is the determination of the Commission to retain the rule in some form, we believe that consideration of competitive factors should be done on a market-by-market, case-by-case basis. Evaluation of the competitive factors in each market would become almost unmanageable for the Commission, and virtually impossible for license owner/applicants to provide standardized and comparable information.

The newspaper/radio station rule is promulgated on some assumptions which may no longer be applicable. The assumption that a daily newspaper in a given market has heavy dominance in that market may simply no longer be true - particularly in light of the Commission's issuance of hundreds of new licenses over the past few years and allowance of single ownership of up to eight radio stations in the largest markets. In that situation, and in the situation allowing combined radio-television ownership in the same market, it is not necessarily true that the daily newspaper retains market dominance. The Commission has now allowed radio to become large enough within the same market to compete economically with daily newspapers and therefore, it should probably only be concerned with the diversity of voices in the market. With recent proliferation of cable, satellite, Internet and other technology, the market has become more competitive than in the past and the assumption of daily newspaper dominance is rapidly losing its legitimacy.

We firmly believe that the Commission should NOT view a proposed newspaper/radio combination differently if it involves a large major daily newspaper rather than a small, but not failing, local daily.

Granting a waiver to a combination involving a large daily, but not allowing a combination in the case of a company such as ours, would be patently unfair. In fact, we feel our experience argues in favor of preferred treatment the other direction - that there may be a greater need for waivers in cases involving smaller markets and smaller newspapers - but again assert that the same rule, or absence of any newspaper/radio station cross-ownership rule, should be applied to all newspapers.

CONCLUSIONS

In conclusion, the Commission should review its cross-ownership rule in the current, deregulated and free-market environment, and consider the massive technological changes which have occurred since its adoption in 1975. No longer are the issues of local, independent voices, geographical or market dominance as much of a factor as they once were, and there is no longer a significant need for the rule. However, if the Commission determines that there is still a need for such protection, the rule should be applied equally and fairly to all stations and all markets, regardless of market size or location, and particularly without regard to the characteristics of the local newspaper.

Respectfully Submitted
STAR PRINTING COMPANY
Miles City, Montana

John Sullivan, President

Contact:

Don Richard, Manager
KATL(AM)
P.O. Box 700
Miles City, Montana 59301
Telephone: (406) 232-770
L:\1245\002\LTR\Comments regarding Cross-Ownership.doc

competitive than in the past and the assumption of daily newspaper dominance is rapidly losing its legitimacy.

We firmly believe that the Commission should NOT view a proposed newspaper/radio combination differently if it involves a large major daily newspaper rather than a small, but not failing, local daily.

Granting a waiver to a combination involving a large daily, but not allowing a combination in the case of a company such as ours, would be patently unfair. In fact, we feel our experience argues in favor of preferred treatment the other direction - that there may be a greater need for waivers in cases involving smaller markets and smaller newspapers - but again assert that the same rule, or absence of any newspaper/radio station cross-ownership rule, should be applied to all newspapers.

CONCLUSIONS

In conclusion, the Commission should review its cross-ownership rule in the current, deregulated and free-market environment, and consider the massive technological changes which have occurred since its adoption in 1975. No longer are the issues of local, independent voices, geographical or market dominance as much of a factor as they once were, and there is no longer a significant need for the rule. However, if the Commission determines that there is still a need for such protection, the rule should be applied equally and fairly to all stations and all markets, regardless of market size or location, and particularly without regard to the characteristics of the local newspaper.

Respectfully Submitted
STAR PRINTING COMPANY
Miles City, Montana

John Sullivan, President

Contact:

Don Richard, Manager
KATL(AM)
P.O. Box 700
Miles City, Montana 59301
Telephone: (406) 232-770
L:\1245\002\...\Comments regarding Cross-Ownership.doc